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March 24, 2005

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, DC 20554

Reference: CG Docket No. 02-278; DA 05-342

Dear Ms. Dortch:

We petition the Commission to preempt state jurisdiction of all aspects of interstate telephone communications.

The Federal Communications Commission established jurisdiction over interstate communications in the United States over 70 years ago through the Communications Act of 1934. Throughout this period of time the Commission's jurisdiction has been exercised uniformly and fairly in striking a proper balance between consumer protection and healthy commerce. Recently, however, states have begun creating new and unique legislation to regulate interstate communications and to impose their jurisdiction which threatens the ability to conduct healthy commerce. Business has suffered as a result, and confusion and frustration are commonplace today at virtually every step of the way in efforts to comply with the inconsistencies among the state laws.

Below are just a few examples of these inconsistencies:

- There are at least eleven variations in the definition of an "existing business relationship" among the states.
- Nine different calling time restrictions exist among the states.
- Twenty-seven of the fifty states have different sets of disclosure requirements that must be provided to the consumer on live telemarketing calls. Of the twenty-seven states, seven have the same requirements common to themselves; and 14 states have requirements unique to themselves separately.

Compliance should simple; not an ordeal. One set of consistent regulations for interstate communications makes sense and provides the ability for much easier compliance. We believe

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We further believe that the FCC should retain and declare its sole authority to regulate interstate communications by preempting state laws that conflict with federal statute. It is our belief that the states should regulate only intrastate calls; that is, calls placed from one location within the state to another location within the same state. In a letter of response dated January 26, 1998 to Delegate Ronald A. Guns of the State of Maryland, Ms. Geraldine A. Matise, Chief, Network Services Division of the FCC's Common Carrier Bureau wrote:

"Whether a state may impose requirements on interstate communications depends on an analysis under the Supremacy Clause of Article VI of the U.S. Constitution. Under the Supremacy Clause, a state may not regulate conduct in an area of interstate commerce intended by the Congress for exclusive federal regulation. Section 2(a) of the Act (47 U.S.C. 153 (22)) grants the Commission jurisdiction over all interstate and foreign communications. Interstate communications are defined as communications or transmissions between points in different states. Section 2(b)(1) of the Act generally reserves to the states jurisdiction over intrastate communications. Intrastate communications are defined as communications or transmissions between points within a state."

Ms. Matise further wrote to conclude:

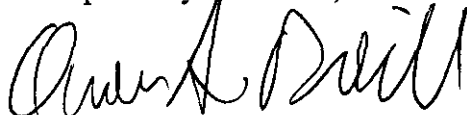
"...Maryland can regulate and restrict intrastate commercial telemarketing calls. The Communications Act, however, precludes Maryland from regulating or restricting interstate commercial telemarketing calls. Therefore, Maryland can not apply its statutes to calls that are received in Maryland and originate in another state or calls that originate in Maryland and are received in another state".

The Commission's understanding of the law and the explanation provided to the Maryland Delegate in this letter are quite clear in asserting its jurisdiction over interstate communications, not only in the case of Maryland but for all states. We believe that no state should have jurisdiction over interstate communications under the current law.

We further believe that any state's attempt to preempt federal jurisdiction by state legislation is unnecessary and unlawful, especially since the FCC has successfully exercised its jurisdiction for over 70 years. Any change in jurisdiction must be the result of a due process change in the law first; and not by way of usurpation.

We urge the FCC to declare and enforce its preemption of any and all state laws regulating interstate communications. We thank the FCC for considering this petition.

Respectfully submitted,



Owen A. O'Neill
Quality Director
TCIM Services, Inc.